THE HONOURBALE SRI JUSTICE GODA RAGHURAM

WP NO.23199 OF 2006

Between:

Vallabhaneni Balaji Babu and others

....petitioners

Vs.

The Land Acquisition Officer and R.D.O, Gudivada and another

…Respondents

THE HONOURBALE SRI JUSTICE GODA RAGHURAM

WP NO.23199 OF 2006

ORAL ORDER

The lands of the petitioners in Undrapudi village, Pamarru Mandal, Krishna District in an extent of Ac.0.10 cents, 0.20 cents, and Ac.0.10 cents respectively were proposed for acquisition for providing house sites for the poor. The notification under Section.4(1) of the Land Acquisition Act,1894 was issued by a gazette publication dated.26-07-2006 followed by a publication in the newspapers and publication of the substance in the locality. Urgency Under Section.17(4) of the Act was invoked and the salutary process of enquiry under Section.5-A of the Act was dispensed with. A draft declaration under Section.6 of the Act was published on 28-04-2006 and also published in the newspapers and in the locality eventually. Notices under Sections.9 and 10 of the Act were issued. At that stage the petitioners lodged their objections to the acquisition process on 13-10-2006 and there being no response, have approached this Court *inter alia* assailing the arbitrary invocation of urgency and dispensing with the enquiry under Section.5-A of the Act.

In the counter-affidavit filed on behalf of the respondents, it is pleaded that with a view to provide housing to 19 families not having a dwelling in Undrapadi village, the acquisition of the lands for providing of houses under “Indiramma programmee” has been undertaking and therefore urgency was invoked.

In the considered view of this Court the premises on which the respondents have invoked the urgency is perverse. The fact of the

matter is that the process of identification of funds for payment of compensation for the lands acquired, fine tuning the policy of providing houses, the mobilization of resources and infrastructural facilities for acquisition could not have been over-night decisions. Each component of the decision making process for the acquisition of the property even for providing house sites involves a process of administrative consideration. Providing of an opportunity under Section.5-A of the Act is not *per se* a long drawn out process. The right to lodge objections under Section.5-A of the Act has been held to be a statutory and a valuable right. The validity of invocation of urgency has to be considered in this context. So considered the invocation of urgency appears to be irrational and is accordingly declared. Consequently the draft declaration issued under Section 6 of the Act and published in the Krishna District Gazette E.O.No.D.No.89/2006 dated.24-08-2006 is declared invalid insofar as the acquisition of lands of the petitioners is concerned.

The respondents will now proceed to issue notices to the petitioners soliciting objections under Section.5-A of the Act. On receipt of the objections by the petitioners within the time stipulated in the notices the respondents shall consider the same and the competent authority shall take a decision whether to proceed further with the process of acquisition. The reasoned decision of the competent authority on the petitioners' objections shall be recorded and communicated to the petitioners by registered post with acknowledgment due. Till further decision and proceedings to acquire are taken after following the above direction, the petitioners shall not be dispossessed.

The writ petition is accordingly disposed of. There shall be no order as to costs.

_____

GODA RAGHURAM,J

20th AUGUST 2007
***TSNR**